

**REDACTED VERSION
PURSUANT TO 35-A M.R.S.A. § 704(5)**

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-329

March 13, 2001

APPEAL OF CONSUMER ASSISTANCE
DIVISION DECISION #2000-329
Regarding Bell Atlantic-Maine

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we require: (1) Verizon-Maine to re-rate all of **[customer]** intrastate toll calls between December 12, 1996 and July 1, 1997; and (2) **[customer]** to pay all of the re-rated charges and any outstanding charges for basic service within thirty (30) days of receipt of the updated bill from Verizon.

II. BACKGROUND

On November 8, 1999, **[owner]**, President of **[customer]**, contacted the Commission's Consumer Assistance Division (CAD) regarding a billing dispute with Verizon-Maine (then Bell Atlantic-Maine). **[Customer]** claimed that Verizon failed to honor a rate plan of \$.09 per minute for intrastate toll calls and \$.11 per minute for interstate calls and instead charged rates of \$.54 per minute for intrastate calls. **[Customer]** also alleged that Verizon had transferred amounts due from the previous owner of the radio station and had misapplied payments to the **[customer]** account. On November 18, 1999, CAD contacted Verizon, told the Company that a complaint had been filed, and asked that Verizon begin an investigation. On November 23, 1999, Verizon disconnected **[customer]** in violation of Chapter 81 of the Commission's Rules, which prohibit disconnection while a CAD investigation is pending.

On April 3, 2000, CAD issued its decision. CAD found that Verizon's records did not document any discussions with **[customer]** regarding intrastate rates nor did Verizon have a contract on file for the alleged rate plan. CAD found that in December of 1996, three new lines were added to the existing four lines for the **[customer]** account. The three new lines were pre-subscribed to AT&T (for both intrastate and interstate toll), while the old lines were pre-subscribed to Verizon for intrastate toll. CAD found that Verizon properly billed **[customer]** according to Verizon tariffed rates. CAD also found that no amounts due from the previous owner had been applied to the **[customer]** accounts. Finally, CAD found that it could not confirm **[customer's]** allegation that Verizon had failed to properly apply payments to the **[customer]** account. Instead, CAD found that **[customer]** had failed to make regular monthly payments on many

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occasions. Thus, CAD found **[customer]** liable for the full amount due and owing to Verizon. CAD did not make any finding regarding Verizon's failure to comply with Chapter 81.

III. BASIS FOR APPEAL

On April 7, 2000, **[customer]** appealed CAD's decision. **[Customer]** alleges that CAD's decision is based on several inaccuracies. First, **[customer]** claims that the rates **[customer]** was quoted were from NYNEX, Verizon/Bell Atlantic's predecessor, which may explain why there are no records with Verizon. **[Customer]** further states that it has documentation from another long distance carrier with an offer of \$.09 per minute. **[Customer]** claims that, "it is unreasonable to believe we would have accepted or agreed to a \$.52 minute plan when a \$.09 minute plan was available at the same time." **[Customer]** also claims that numerous calls were made between January and April 1997 to question the accuracy and validity of the bills – calls that are not documented by Verizon. **[Customer]** states that it was forced to hire a third-party consultant to act as its representative with Verizon and that obtaining duplicate bills was difficult.

According to **[customer]**, in the summer of 1997, Verizon told **[customer]** to "pay the current charges and ignore the past due amounts until it could be determined whether they were correct charges." **[Customer]** followed these instructions for the next two and a half years. It was not until late 1999, after Verizon disconnected **[customer's]** service, that **[customer]** received the duplicate bills originally requested in 1997.

[Customer] alleges two other inaccuracies, one relating to the finding that additional lines were ordered in December 1997 and one relating to whether **[customer]** provided copies of cancelled checks. Because neither of these alleged inaccuracies impacts our decision, we will not address them any further.

IV. DECISION

This case involves a very complex set of bills dating back to 1996. The phone company at issue, Verizon, has gone through two mergers during this time. At this point, it is impossible to completely unravel and document every aspect of this case. While it may be true that Verizon has no records of any "deal" with **[customer]** regarding toll rates, we do not find that fact dispositive. Indeed, we are more persuaded by **[customer's]** argument it would have been completely unreasonable for **[customer]**, a business with significant intrastate toll needs, to choose to pay \$.52 per minute when it had another offer for \$.09 per minute.

Furthermore, we agree with **[customer]** that the summary bills provided by Verizon are extremely difficult to understand. We find no explanation by Verizon for its

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two-year delay in providing duplicate billing records, nor do we find any excuse for Verizon's failure to comply with the disconnection procedures required by our Rules.

We also find, however, no explanation for **[customer's]** failure to make any payments during the months of February, March, April, June, July and December of 1997, February, March, April, June July, September, November, and December of 1998, and March and May of 1999. Regardless of any disputed amounts for toll, **[customer]** should have been making regular monthly payments for basic service, as this amount was undisputed.

Given the actions of both parties to this dispute, we believe the most appropriate resolution of this case is as follows:

- (1) Verizon must re-rate all of **[customer's]** intrastate toll calls between December 12, 1996 and July 1, 1997 at \$.09 per minute;
- (2) **[Customer]** must pay all of the re-rated charges and any outstanding charges for basic service (excluding late charges);
- (3) **[Customer]** must pay the amount due within thirty (30) days of receipt of the updated bill from Verizon.

We remind Verizon that it must comply with all provisions of Chapter 81 of our Rules relating to disconnection and that repeated violations may result in a Commission investigation into Verizon's practices. We also remind **[customer]** that it must make its regular monthly payments or risk disconnection.

Dated at Augusta, Maine, this 13th day of March, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Nugent
Diamond

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NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.